

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 595 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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RATHOD GAURANG RAJUBHAI

Versus

STATE OF GUJARAT

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Appearance:

MR AD SHAH for Petitioner  
MR SA PANDYA, ADDL.PUBLIC PROSECUTOR for Respondent No. 1

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CORAM : MR.JUSTICE N.J.PANDYA  
Date of decision: 13/08/97

ORAL JUDGEMENT

The appeal is admitted. With the consent of the parties, it is taken up for final hearing.

The appeal is filed against the judgment of the ld.Sessions Judge, who acting as a Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of

Atrocities) Act, 1989, dealt with Special Case No.36 of 1996 for the offences punishable under Section 3(1)(10) of the said Act and for the alleged offences under Section 504, 324, 332, 186 all of IPC read with Section 114 of IPC and also Section 135 of the Bombay Police Act. There were two accused in all.

The accused no.2 came to be acquitted while accused no.1 was acquitted for all the offences except the offence punishable under Section 353 and 186 of IPC.

Ld.Advocate Shri Shah appearing for the appellant accused had instructions to submit that the appellant may not question the order of conviction, but the order of sentence be set aside and the benefit of probation be given.

The report of the Probation Officer was called for and the same is received. The report is favourable to the appellant and the Officer recommends the grant of benefit of orders under Section 4(1) of the Probation of Offenders Act, looking to the family background, higher education which the appellant is pursuing at present and that this is the solitary incident in his life, it is desirable that he be given a chance for reformation and, therefore, instead of confining him to the prison, by giving him an opportunity of being a good citizen. Under the circumstances, I am of the opinion that the benefit under Section 4(1) of the said Act be given to him.

The order of conviction stands and the order of sentence is set aside and, the appeal, therefore, stands partly allowed to that extent. The appellant shall execute a bond of Rs.2,000/- (Rupees Two thousand only) before the trial Court and shall bind himself for a period of one year to maintain peace and be of good behaviour. In case of breach of the said condition or any of the conditions of the bond, the appellant shall be brought before the ld. Sessions Judge in whose Court the matter was tried, for receiving the sentence which shall be passed by him after hearing the appellant in accordance with law. The fine, if paid, is ordered to be refunded. The appeal stands disposed of accordingly.

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